





FILE:

Office: LOS ANGELES, CA

Date:

JUL 2 2 2004

IN RE:

Applicant:

APPLICATION:

Application for Certificate of Citizenship pursuant to Section 201(g) of the Nationality

Act of 1940, 8 U.S.C. § 601(g).

ON BEHALF OF APPLICANT:

## **INSTRUCTIONS:**

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Director Administrative Appeals Office

identify and all addicted to prevent clearly unwarranted invasion of personal privacy



**DISCUSSION**: The application was denied by the District Director, Los Angeles, California, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The record reflects that the applicant was born on January 28, 1949, in Tijuana, Mexico. The applicant's father, was born a U.S. citizen on September 7, 1920, in Cedar Rapids, Iowa. The applicant's mother, was born in Mexico, and she became a naturalized U.S. citizen on July 3, 1997, when the applicant was forty-eight years old. The applicant's parents married on May 7, 1945, in Mexico. The applicant seeks a certificate of citizenship under section 201(g) of the Nationality Act of 1940 (the NA); 8 U.S.C. § 601(g), based on the claim that he acquired U.S. citizenship at birth through his father.

The district director determined the applicant had failed to establish that his United States citizen father resided in the United States or its outlying possessions for a period of ten years prior to the applicant's birth, at least five of which were after the age of sixteen. The application was denied accordingly.

On appeal counsel asserts that the district director failed to consider all of the evidence submitted by the applicant, and that the evidence in the record establishes that the applicant's father (Mr. Tresided in the United States for the requisite time period set forth in section 201(g) of the NA.

"The applicable law for transmitting citizenship to a child born abroad when one parent is a U.S. citizen is the statute that was in effect at the time of the child's birth." *Chau v. Immigration and Naturalization Service*, 247 F.3d 1026,1029 (9<sup>th</sup> Cir. 2000) (citations omitted). Because the applicant was born on January 28, 1949, section 201(g) of the NA applies to his case.

In order for a child born outside of the United States to derive citizenship from one U.S. citizen parent pursuant to section 201(g) of the NA, it must be established that, when the child was born, the U.S. citizen parent resided in the U.S. or its outlying possession for ten years, at least five of which were after the age of sixteen. See § 201(g) of the NA. The applicant must therefore establish that his father resided in the U.S for ten years between September 7, 1920 and January 28, 1949, and that five of those years occurred after September 7, 1936, when Mr

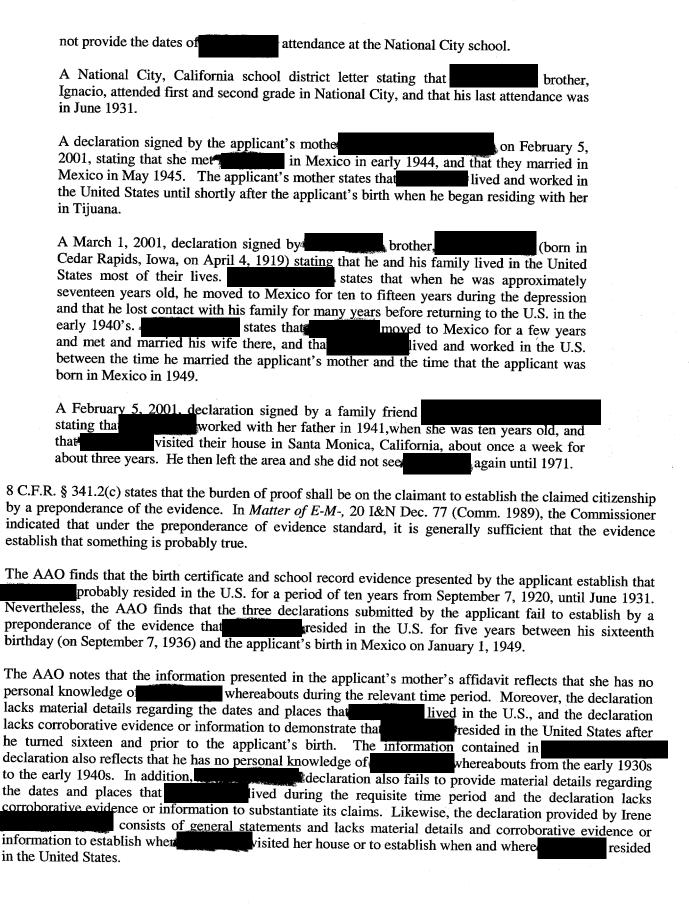
The record contains the following evidence pertaining to Mr. U.S. residence between September 7, 1920 and January 28, 1949:

A birth certificate reflecting that Mr. was born in Cedar Rapids, Iowa on September 7, 1920;

Birth certificates reflecting that Mr. siblings were born in the U.S. on the following dates:

born on July 31, 1922 in Cedar Rapids, Iowa orn on May 4, 1924 in National City, California born on February 2, 1926 in National City, California born on November 26, 1927 in National City, California.

A National City, California school district letter stating that Mrease attended second grade in National City, and that he resided in National City at the time. The letter does



Accordingly, the AAO finds that the applicant has failed to establish his father resided in the United States for five years between his sixteenth birthday on September 7, 1936, and the applicant's birth on January 28, 1949, as required by section 201(g) of the NA. The applicant has thus failed to establish that he is entitled to derivative U.S. citizenship through his father.

8 C.F.R. 341.2(c) states that the burden of proof shall be on the claimant to establish the claimed citizenship by a preponderance of the evidence. The applicant has not met his burden and the appeal will be dismissed.

**ORDER:** The appeal is dismissed.